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The exemption from taxation
of church property

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THE EXEMPTION FROM TAXATION
OF
CHURCH PROPERTY, AND THE PROPERTY
OF EDUCATIONAL, LITERARY AND
CHARITABLE INSTITUTIONS.

BY CHAS. W. ELIOT,
PRESIDENT HARVARD COLLEGE.

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CAMBRIDGE, December 12, 1874.

To the Commissioners of the Commonwealth, appointed "to inquire into the expediency of revising and amending the laws of the State relating to taxation and the exemptions therefrom":—

GENTLEMEN :—In accordance with a request contained in a letter of October 14, 1874, from Prof. J. H. Seelye, that I lay before your Commission my "views respecting the present exemption from taxation of property used for religious, educational and charitable purposes," I respectfully present for your consideration the following paper.

Your obedient servant,

CHARLES W. ELIOT.

The property which has been set apart for religious, educational and charitable uses is not to be thought of or dealt with as if it were private property ; for it is completely unavailable for all the ordinary purposes of property, so long as the trusts endure. It is like property of a city or state which is essential for carrying on the work of the city or state, and so cannot be reckoned among the public assets ; it is irrecoverable and completely unproductive. The capital is sunk, so to speak, just as the cost of a sewer or a highway is capital sunk. There is a return, both from a church or a college, and from a sewer or a highway, in the benefit secured to the community ; but the money which built them is no longer to be counted as property, in the common sense. It can never again be productive, except for the purposes of the trust for which it was set apart.

When a new road is made where there was none, the State, or some individual, sacrifices the value of the land it covers, and the money spent in building the road. It also sacrifices the opportunity to tax, in the future, the improvements which might have been put upon that land if it had not been converted into a road, and all the indirect taxable benefits which might have been derived from the use for productive purposes of the land, and of the money which the road cost.

When a church, or a college, or a hospital, buys land, and erects buildings thereon, the State does not sacrifice the value of the land, or the money spent upon the buildings; private persons make these sacrifices; but the State does sacrifice, by the exemption statute, the opportunity to tax, in the future, the improvements which might have been put upon that land if it had not been converted to religious, educational or charitable uses, and all the indirect taxable benefits which might have been derived from the use for productive purposes of the land, and of the money which the buildings cost.

This is the precise burden of the exemption upon the State. Why does the State assume it? For a reason similar to, though much stronger than, its reason for building a new road, and losing that area forever for taxation. The State believes that the new road will be such a convenience to the community, that the indirect gain from making it will be greater than the direct and indirect loss. In the same way the State believes, or at least believed when the exemption statute was adopted, that the indirect gain to its treasury which results from the establishment of the exempted institutions is greater than the loss which the exemption involves. If this belief is correct in the main, though not perhaps universally and always, the exemption can hardly be properly described as a burden to the State at large.

The parallel between a sewer or a highway, on the one hand, and land and buildings of exempted institutions, on the other, may be carried a little farther with advantage. The abutters often pay a part of the cost of the sewer or the highway which passes their doors, because it is of more use to them than to the rest of the inhabitants, and the members of the religious, educational or charitable society erect their necessary buildings and pay for their land themselves. If it be granted that the religious, educational or charitable use is a public use, like the use of a sewer or a highway, there is no more reason for taxing the church, the academy or the hospital, than for annually taxing the abutters on a sewer or a highway on the cost of that sewer or on the cost of the highway and its value considered as so many feet of land, worth, like the adjoining lots, so many dollars a foot. The community is repaid for the loss of the taxable capital sunk in the sewer by the benefit to the public health, and the resulting enhancement of the value of all its territory. In like manner, it is repaid for the loss of the capital set apart for religious, educational and charitable uses, by the increase of morality, spirituality, intelligence and virtue, and the general well-being which results therefrom. To tax lands, buildings, or funds which have been devoted to religious

or educational purposes, would be to divert money from the highest public use,—the promotion of learning and virtue,—to some lower public use, like the maintenance of roads, prisons or courts, an operation which cannot be expedient until too large an amount of property has been devoted to the superior use. This is certainly not the case in Massachusetts to-day. The simple reasons for the exemption of churches, colleges and hospitals from taxation are these: first, that the State needs those institutions; and secondly, that experience has shown that by far the cheapest and best way in which the State can get them is to encourage benevolent and public-spirited people to provide them by promising not to divert to inferior public uses any part of the income of the money which these benefactors devote to this noblest public use. The statute which provides for the exemption is that promise.

Exemption from taxation is not then a form of State aid, in the usual sense of those words; it is an inducement or encouragement held out by the State to private persons, or private corporations, to establish or maintain institutions which are of benefit to the State. The answer to the question,—Why should the State give encouragement, in any form, to private corporations which support churches, academies, colleges, hospitals, asylums, and similar institutions of learning, advanced education and public charity,—involves, therefore, an exposition of the public usefulness of these corporations. I say advanced education, because the lower grades of education are already provided for at the public charge, and there seems to be little disposition to question the expediency and rightfulness of this provision.

The reason for treating these institutions in an exceptional manner is, that having no selfish object in view, or purpose of personal gain, they contribute to the welfare of the State. Their function is largely a public function; their work is done, primarily, indeed, for individuals, but ultimately for the public good. It is not enough to say of churches and colleges that they contribute to the welfare of a State; they are necessary to the existence of a free State. They form and mold the public character; and that public character is the foundation of everything which is precious in the State, including even its material prosperity. To develop noble human character is the end for which States themselves exist, and civil liberty is not a good in itself, but only a means to that good end. The work of churches and institutions of education is a direct work upon human character. The material prosperity of every improving community is a fruit of character; for it is energetic, honest and sensible men that make

prosperous business, and not prosperous business that makes men. Who have built up the manufactures and trade of this bleak and sterile Massachusetts? A few men of singular sagacity, integrity and courage, backed by hundreds of thousands of men and women of common intelligence and honesty. The roots of the prosperity are in the intelligence, courage and honesty. Massachusetts to-day owes its mental and moral characteristics, and its wealth, to eight generations of people who have loved and cherished Church, School and College.

The public services of these institutions can hardly need to be enlarged upon. A single sentence may be given to the utility of that class of institutions which I may be supposed to speak for—the institutions of advanced education—the academies, colleges, scientific and technical schools, professional schools and seminaries, art collections and museums of natural history. All the professions called learned or scientific are fed by these institutions; the whole school system depends upon them, and could not be maintained in efficiency without them; they foster piety, art, literature and poetry; they gather in and preserve the intellectual capital of the race, and are the store-houses of the acquired knowledge on which invention and progress depend; they enlarge the boundaries of knowledge; they maintain the standards of honor, public duty and public spirit, and diffuse the refinement, culture and spirituality without which added wealth would only be added grossness and corruption.

Such is the absolute necessity of the public work which the institutions of religion, education and charity do, that if the work were not done by these private societies, the State would be compelled to carry it on through its own agents, and at its own charge. In all the civilized world, there are but two known ways of supporting the great institutions of religion, high education and public charity. The first and commonest way is by direct annual subsidies or appropriations by government; the second way is by means of endowments. These two methods may of course be combined. An endowment, in this sense, is property, once private, which has been consecrated forever to public uses. If, in one generation, a group of people subscribe to buy a piece of land, and build a church thereon, that church is an inalienable endowment for the benefit of succeeding generations. It cannot be diverted from religious uses, or ever again become private property. If a private person bequeath fifty thousand dollars with which to maintain six free beds for Boston sick or wounded in the Massachusetts General Hospital, which is an institution supported by endowments, that beneficent act obviates forever the necessity of

maintaining six beds at the Boston City Hospital, which is an institution supported by direct taxation. If, by the sacrifices of generous and public-spirited people in seven generations, Harvard University has gradually gathered property which might now be valued at five or six millions of dollars, the State of Massachusetts is thereby saved from an annual expenditure of three or four hundred thousand dollars for the purpose of maintaining the liberal arts and professions; unless, indeed, the people of the State should be willing to leave the work of the university undone. To the precise extent of the work done by the income of endowments is the State relieved of what would otherwise be its charge. If some benevolent private citizen had built with his own money the State Lunatic Hospitals, the State would have been relieved of a very considerable charge. To tax such endowments is to reduce the good work done by them, and therefore to increase the work to be done by direct appropriation of government money, unless the people are willing to accept the alternative of having less work of the kind done. If the State wants the work done, it has but two alternatives—it can do it itself, or it can encourage and help benevolent and public-spirited individuals to do it. There is no third way.

The above argument in favor of the exemption of institutions of religion, education and charity from taxation being conclusive unless it can be rebutted, I propose to consider successively the various attempts which have been made to repel or evade it.

The first objection which I propose to consider would be expressed somewhat in this fashion by one who felt it: "I admit that churches, colleges and hospitals are useful, and I do not wish to see their good work diminished; but these institutions get the benefit of schools, police, roads, street lamps, prisons and courts, and should help to support them; their friends and supporters are generous, and will more than make good what the institutions contribute to the city or town expenses." The meaning of this suggestion is just this: The body of tax-payers in a given community having, through the public spirit and generosity of a few of their number, got rid of one of their principal charges,—namely, the support of the institutions of religion, high education and charity,—propose to avoid paying their full proportion of the remaining charges for public purposes, such as schools, roads, prisons, and police. They propose, by taxing the institutions which the benevolent few established for the benefit of the whole body, to throw upon these same public-spirited and generous men an undue share of the other public charges. To state the same thing in another form: there are in the community common charges, A, B, C,

D and E; A has been provided for by a few private persons at their own cost, and the burden of other tax-payers has been to that extent lightened; thereupon the tax-payers say, Let us take part of the money which these men have given for A, and use it for meeting charges B, C, D and E. Our friends who provided for A will give some more money for that purpose, and we shall escape a part of our share of the cost of providing for B, C, D and E. It is at once apparent that this objection is both illogical and mean;—illogical, because if churches, colleges and hospitals subserve the highest public ends, there is no reason for making them contribute to the inferior public charges; and mean, because it deliberately proposes to use the benevolent affections of the best part of the community as means of getting out of them a very disproportionate share of the taxes.

The next objection to the exemption which I propose to consider is formulated as follows:—Churches, colleges and hospitals do indeed render public service; they are useful to the State; but let them be established because people feel the need of them, just as people feel the need of houses, and food, and clothes, and by all means let them support themselves; they ought not to be favored or artificially fostered. Railroads, factories and steamship lines do service to the State; but it does not follow that they ought to be fostered by direct grants of public money, or be exempt from taxation. This objection is a plausible one at first sight; but there is a gap in the argument wide enough for whole communities to fall through into ignorance and misery. For the building of railroads, factories and steamships there exists an all-sufficient motive; namely, the motive of private gain; and they ought not to be built unless there be a genuine motive of that sort. A few men can combine together to build a cotton mill whenever there seems to be a good chance to make money by so doing; and they will thus supply the community with mills. The benefit they might confer upon the State would not be a legitimate motive for building a mill in the absence of the probability of private gain. Now this motive of private gain is not only absent from the minds of men who found or endow churches, colleges or hospitals, but would be absolutely ineffective to the end of procuring such institutions. It would be impossible for three or four men to establish and carry on a university simply for the education of their own sons. Those who found and maintain hospitals have, as a rule, no personal use of them. It is an unworthy idea that a church exists for the personal profit and pleasure of its members, or a college for the private advantage of those who are educated there. A church or a college is a sacred trust, to be used and improved by its members of to-day, and to be by them transmitted

to its members of to-morrow. A modern church is an active centre of diffused charity, and of public exhortation to duty. The press has enlarged the public influence of the pulpit by adding the multitude who read the printed sermon to the congregation who listen to it. The orators, poets, artists, physicians, architects, preachers and statesmen do not exercise their trained faculties simply for their own pleasure and advantage, but for the improvement and delight, or the consolation and relief, of the community. In short, they do not live for themselves, and could not if they would. To increase virtue and piety, to diffuse knowledge and foster learning, and to alleviate suffering, are the real motives for founding and maintaining churches, colleges and hospitals. The work must be done through the individuals on whom the institutions spend their efforts, but the motive of those who promote the work is the public good and the advancement of humanity. Mills, hotels, railroads and steamships, moreover, though they benefit the public, benefit them only in a material way; they provide clothing, shelter, easy transportation, and, in general, increase material well-being. People may be relied on to make themselves comfortable or wealthy, if they can; but they need every possible aid in making themselves good, or learned. The self-interest of no man, and of no association of men, would lead to the establishment of a university. The motive of private gain or benefit being wholly lacking in most cases, and feeble in all, it is to be expected that institutions of religion, high education and public charity would not be founded and maintained, except by the direct action of the State, on the one hand, or, on the other, by the benefactions of private persons encouraged by fostering legislation. This is precisely the experience of all the modern nations. The American States now do less for the institutions of religion directly than any civilized nation, and they have done wisely in completely avoiding an establishment of religion; but from the time when they ceased to support religious institutions directly they fostered them by exempting them from taxation. Institutions of high education never have been self-supporting in any country; and there is no reason whatever to suppose that they ever can be. If they were made self-supporting, they would be inaccessible to the poor, and be maintained exclusively for the benefit of the rich. The higher the plane of teaching, the more the teaching costs, and the fewer the pupils, from the nature of the case. As to the charitable corporations whose whole income is used upon the sick, blind or insane poor, the notion that they could ever be self-supporting is of course an absurdity. Hospitals and asylums which are wholly devoted to

taking care of men and women of the laboring classes who have lost their health, their reason, or some of their senses, cannot be self-supporting in the nature of the case. It is an abuse of language to apply the word to them; they are inevitably supported by private benevolence, or from the government treasury, or by the combination of these two resources.

The opinion, then, that churches, colleges and charitable institutions would be established in sufficient numbers without fostering legislation, and be as well maintained taxed as untaxed, has no warrant either in sound reason or in experience. Not a bit of practical experience can be found in the civilized world to support it; and the analogy set up between these institutions of religion, education and charity, on the one hand, and establishments of trade, manufactures and transportation, on the other, is wholly inapplicable and deceptive.

I come now to the consideration of an objection to the exemption, which is local in its nature, but not on that account less worthy of careful examination. Those who urge this objection admit that the public receives great benefit from churches, colleges and hospitals; but, as these institutions necessarily have local habitations, and taxes under our laws are locally levied, they allege that the particular cities or towns in which the institutions happen to be situated bear, in loss of taxable property, the so-called burden of their exemption, while the whole State, or perhaps the whole country, shares the public benefits which accrue from them. The public burdened, it is alleged, is not the same public as the public benefited. This objection assumes, in the first place, that it is a burden to a city or town to have a lot of land within its borders occupied by an institution exempted from taxation; and this assumption is based upon the belief that, if the exempted institution did not occupy the lot, the taxable houses, or factories, or stores within the limits of the city or town would be increased by the number of houses or stores which might stand upon the exempted lot. This is a proposition which is generally quite incapable of proof, and is intrinsically improbable, but which nevertheless has, in some cases, a small basis of unimportant fact. It implies that there is an unsatisfied demand for eligible land on which to build houses, or factories, or stores, within the city or town limits; but this can be the case only in very few exceptionally situated cities, and not all the time in them, but only spasmodically in seasons of speculation or unusual activity,—and even then not over their whole area, but only in very limited portions of it. Of course the cost of the buildings which might be erected upon a lot rescued from an

exempted institution is not to be counted as an additional resource for the tax-gatherer; for that amount was, under our laws, taxable somewhere before as personal property. If, in any town or city, there are houses or factories or stores enough to meet the demand for such accommodations, the town or city will gain nothing by having more buildings erected. There may be more houses or more stores, but each house or each store will be worth less. In a large city there will always be a few streets, and perhaps wharves, which are absolutely needed for business purposes. Thus, for example, it might not be expedient to have an exempted institution, which had no need of water-front, occupy a portion of a limited water-front, every yard of which was needed for commerce. It might not be expedient that a church should occupy a street corner, or an open square, in the heart of the business quarter of a growing city,—though London has not felt obliged to move St. Paul's into the country, or build upon Trafalgar Square. But such peculiar cases are to be wisely treated as the exceptions which they really are; at any rate, they cannot be made the basis of a great State's policy towards its most precious institutions,—its institutions of religion, learning and charity. As a rule, the amount of taxable property, real and personal, in a town or city is in no way diminished by the fact that a portion of its territory is exempted from taxation; and in many cases it is obvious that the taxable property is actually increased by reservations, whether natural—like small sheets of water—or artificial,—like parks, squares, or open grounds about churches and public buildings. It is well known that, in many new towns and cities of the Western States, it was a well-recognized, and, in some cases, very successful device for raising the price of house-lots, and stimulating the speculation in land, to make a large reservation in the centre of the town for an academy or college. This is one of the reasons why there are such a multitude of colleges at the West. It is but a few years since several towns were bidding against each other to get the Massachusetts Agricultural College planted within their borders. The town of Amherst paid \$50,000 for this privilege. In Boston itself, the block of land on which the buildings of the Natural History Society and the Institute of Technology stand, was given to those corporations on the condition that, if the lands surrounding the reserved area did not rise in value, in consequence of the grant, enough to cover the estimated value of the reservation itself, then the two corporations should pay the deficiency. These corporations never had to pay anything for their land. The city had just as much value in land available for taxation

after the gift was made to these two exempted societies as it would have had if no such gift had been made. It cannot be maintained that the exemption of the church lots in a country town is in any possible sense a burden to the town, or that it diminishes in any way the valuation or amount of the property in the town which is available for taxation. On the contrary, every estate in the town is worth more to the occupant and to the assessor, because of the presence of those churches. The proposition that the presence, in a town or city, of exempted institutions diminishes the amount of taxable property therein is, therefore, not only incapable of proof, but is manifestly untrue in the vast majority of cases. There are, nevertheless, some cases in which a new exemption involves a real loss, though not without compensations, to the town or city from which the property was abstracted; and there are also cases in which the restoration of an exempted piece of property to taxation might be a real gain, in spite of considerable losses. When a benevolent citizen of one town gives \$100,000 of personal property to an exempted institution situated in another town, the first town loses so much property which was there taxable, and the second town has the local benefit of the institution, if there be any. On the other hand, the town which loses in this case has similar chances of gaining local benefits by gifts to institutions situated within its limits from citizens of other towns. Again, it by no means follows that the citizen who gave this \$100,000 would have kept it in a taxable form at his place of residence, if he had not given it to an exempted institution. Such gifts are often—perhaps generally—made out of annual earnings or sudden profits; and if the \$100,000 had not been given to an exempted institution, it might have been unprofitably consumed, or lost, or given away to individuals resident elsewhere. A good deal of the personal property which now goes to churches, colleges and hospitals, would be consumed outright if it were not so saved. If the gift is made by will, instead of during life, there are more chances that the \$100,000 would, in the distribution of the property, have been carried away from the testator's place of residence, at any rate. When a piece of real estate is transferred to an exempted institution for its own proper use, the local benefits of the institution, if there be any, are for the same town which gives up the taxes on the piece of real estate, and the withdrawal of that piece from productive uses probably brings some other piece into use at once, or at least sooner than would otherwise have happened. It would seem, at first sight, as if it would be clear gain to get a piece of land, once exempted, taxed again, and covered with taxable houses or stores; but

there are always drawbacks on the gain. If Boston Common should be cut up and built upon, the conveniently situated houses and stores built there would cause other houses and stores, less well placed, to be vacated, or to fall in value; and the improvement of real estate in the outskirts would be arrested or checked for a time. The estates which face the Common would also fall in value. It would be a permanent gain that the business of the city would probably be more conveniently done thereafter; and this indirect gain, whatever it might be, would ultimately be represented in the taxable property of the city. In this particular instance the productiveness of Boston would doubtless be diminished by the loss of health, vigor and spirits, on the part of the inhabitants, consequent upon the loss of the healthful open area. It is, then, quite impossible to maintain that any exemption is a clear loss to the place in which it exists. With every loss there come chances of advantage. Sometimes the loss is great and the compensation small, and sometimes the advantages quite outweigh the loss. We have seen that, in the long run, there is no real loss to the State at large; and, in all probability, the local gains and losses of the various towns and cities of the Commonwealth would be found to be distributed with tolerable fairness, if the averaging period were long enough. Absolute equality in matters of taxation is unattainable.

It is important to demonstrate satisfactorily the statement just made, that great advantages often accrue to a town or city from the presence of institutions exempted from taxation, advantages which much more than offset any losses which are real. A concrete instance will best illustrate this proposition; and no better instance can be chosen than that of Harvard University, an exempted institution occupying about seventy acres of land in the city of Cambridge, which land, with the buildings thereon and their contents, is alleged by the assessors to be worth from three to four millions of dollars. This case is perhaps as strong as any on the side of the objectors to the exemption, because the exempted area is large and its value is high, and on this very account it is a case well adapted to my present purpose. In the first place, all the land which faces or adjoins the university's inclosures, is enhanced in value in consequence of that position. The open grounds of the university have the same effect on the surrounding lands which open spaces of an ornamental character always have in cities. They improve the quality and value of the whole neighborhood. Secondly, the university brings to Cambridge a large amount of personal property, which becomes taxable there. The fifty families, of which the heads are teachers in the university, possess,

on the average, an amount of personal property which much exceeds the property of the average family throughout the city. A considerable number of families are always living near the university for the sake of educating their children. They come to Cambridge for this express purpose, and stay there from four to seven years, or sometimes indefinitely. Many of these families have large means; in fact, few others could afford such a temporary change of residence. Again; families of former officers and teachers in the university continue to live in Cambridge; and it is notorious that some of the largest properties taxed in the city are of this sort. Finally, families come to Cambridge to live because of the society which has gathered about the university. The amount of taxable personal property brought into ward one of Cambridge by the university in these several ways counts by millions. Accordingly, this ward is the richest ward in Cambridge, and has always been the most desirable part of the city to live in, as the character of its houses and of its population abundantly testifies. It has eighteen per cent. of the houses in Cambridge and sixteen per cent. of the polls, while it has thirty per cent. of the taxable property. The ward had no natural advantage over the rest of the city, having, to this day, its fair share of bogs, salt marshes and sandy barrens. The greater part of its surface is but a few feet above high-water mark, and nothing but the presence of the university during two hundred and forty years has made it the desirable place of residence which it is.

In still another way does the university bring taxable money to Cambridge. It collects from its students in Cambridge about \$150,000 a year, adds thereto about \$50,000 of the income of its personal property, and pays this large sum out as salaries and wages to people who live in Cambridge. A large portion of this sum is annually taxed by the city as the income of individuals in excess of \$2,000 a year.

It is well understood that the building of a new factory in a village, or the introduction of some new industry into a town, which gives employment to a large number of respectable people, is a gain to that village or town. Whatever brings into a town a large body of respectable consumers benefits that town. Now, the university brings into Cambridge a large body of respectable consumers; there are fifty families of teachers, about fifty more unmarried officers, about one thousand students, and about one hundred janitors, mechanics, laborers, bed-makers and waiters, a fair proportion of whom have families. As the great part of these persons belong to the refined and intelligent and well-to-do class, they consume very much more than the average

of the community. The money thus spent in Cambridge is mainly brought from without, for the greater part of it is either derived from the personal property of the university, or it is money brought from home by the students. If it were not for the presence of this body of consumers, the land, houses and shops of that part of Cambridge would all be worth less than they are, and the assessors would find so much less to tax.

It is a great advantage to a city to have a place of high education at its doors, just as it adds to the attractiveness and prosperity of a city to maintain good schools. Nearly one hundred Cambridge young men are now members of the university.

The grounds of the university adorn the city, and serve as protection against spreading conflagrations. They give light and air, trees, shrubs, grass and birds to a part of the city which must soon become densely populated. In the future they will serve many of the purposes of a public park, while they will be maintained without expense to the city. The buildings and collections of the university, which are becoming more and more attractive, are a source of interest and pleasure to all the people of the neighborhood. It is a curious illustration of the incidental advantages which Cambridge has reaped from the presence of the university, that printing and binding are still principal industries in the city, industries which give employment to hundreds of work-people and a large taxable capital. The business of printing was planted in Cambridge by the college, and was maintained there by the college, in spite of great difficulties, for many years.

Finally, the presence of the university gives distinction to the city. Cambridge is one of the famous spots of the country, and its citizens take pride and pleasure in its eminence.

I have taken a single notable example through which to exhibit the various advantages which a town or city may derive from the presence of one of the exempted institutions. *Mutatis mutandis*, the principles just laid down apply to almost all of them, with a force which varies with the locality, the nature of the institution, and the stage of its development. The benefits of many of the exempted charitable institutions are almost exclusively local. The direct benefits of a town's churches are largely, though not exclusively, local, and if the church buildings are beautiful, or interesting from historical associations, this indirect benefit is local too. It may not be impossible to pick out some exceptional institution of education or charity, or some single peculiarly placed church, to which these principles concerning the bearing of the exemption upon the interests of localities may not

apply in their full force, or may not apply at all at a given moment ; but the legislator should never be much influenced by the exceptions to general rules, or by momentary abnormal phenomena, or by the back eddies in a strong current of opinion.

We have seen that exempted institutions are considered by towns desirable acquisitions, in spite of the exemption. There is competition among them even for the state prison and the lunatic asylums ; and they doubtless understand their own interests. But if the towns were allowed to tax the institutions now exempted, what a treasure would a college, or a hospital, with a large amount of personal property, be to a town ! The town would have all the indirect local benefits of the institution, and the taxes on its property besides ; and this unmerited addition to the property taxable in the town would correspond to no service performed, sacrifice made, or burden borne by the town.

It has been often asserted, that to exempt an institution from taxation is the same thing as to grant it money directly from the public treasury. This statement is sophistical and fallacious. It is true that the immediate effect on the public treasury is in dollars and cents the same, whether Harvard University be taxed \$50,000, and then get a grant of \$50,000, or be exempted from taxes to the amount of \$50,000, and get no grant. The immediate effect on the budget of the university would also be the same. The proximate effects of these two methods of state action in favor of religion, education and charity are however unlike,—so unlike, indeed, that one is a safe method, while the other is an unsafe method in the long run, though it may be justifiable under exceptional circumstances. The exemption method is comprehensive, simple and automatic ; the grant method, as it has been exhibited in this country, requires special legislation of a peculiarly dangerous sort, a legislation which inflames religious quarrels, gives occasion for acrimonious debates, and tempts to jobbery. The exemption method leaves the trustees of the institutions fostered untrammelled in their action, and untempted to unworthy arts or mean compliances. The grant method, as practised here, puts them in the position of importunate suitors for the public bounty, or, worse, converts them into ingenious and unscrupulous assailants of the public treasury. Finally and chiefly,—and to this point I ask special attention,—the exemption method fosters public spirit, while the grant method, persevered in, annihilates it. The State says to the public-spirited benefactor, “ You devote a part of your private property forever to certain public uses ; you subscribe to build a church, for

example, or you endow an academy ; we agree not to take a portion of the income of that property every year for other public uses, such as the maintenance of schools, prisons and highways." That is the whole significance of the exemption of any endowment from taxation. The State agrees that no part of the income of property, once private, which a former generation, or the present generation, has devoted forever to some particular public use, shall be diverted by the State to other public uses. The exemption method is emphatically an encouragement to public benefactions. On the contrary, the grant method extinguishes public spirit. No private person thinks of contributing to the support of an institution which has once got firmly saddled on the public treasury. The exemption method fosters the public virtues of self-respect and reliance ; the grant method leads straight to an abject dependence upon that superior power—Government. The proximate effects of the two methods of state action are as different as well-being from pauperism, as republicanism from communism. It depends upon the form which the action of the State takes, and upon the means which must be used to secure its favor, whether the action of the State be on the whole wholesome or pernicious. The exemption is wholesome, while the direct grant is, in the long run, pernicious.

There has been, of late years, a good deal of vague declamation against endowments. We have heard much of the follies and whimsies of testators, and fearful pictures have been painted of dead hands stretched out from the cold grave to chill and oppress the living. We frequently read sneers and flings at those benefactors of the public who, living or dying, consecrate their money to religious, educational or charitable uses. In urging the abolition of the exemption, much use has been made of this sort of appeal. What is its basis? Are there any grounds whatever for jealousy of endowments? Millions of private property in this State have been devoted to public uses of religion, education and charity. These endowments are all doing good work for the present generation, and are likely to do good to many generations to come. To how many injurious or useless endowments can any one point in Massachusetts? There are persons who too hastily say that they hold Catholic churches to be injurious endowments ; but it must be a very bigoted Protestant that does not admit that a Catholic church is better for a Catholic population than no church at all. Catholics would doubtless, in these days, grant as much as that for a Protestant population. The judicious legislator, when he speaks of the church, does not mean any particular church, or the churches of any particular

sect; he means the sum of all the churches, the aggregate of all religious institutions, Christian, Israelite and Greek, Roman and Protestant, Congregational, Baptist, Anglican and Quaker. To legislate, directly or indirectly, either for or against any particular religious belief or worship, would be utterly repugnant to all sound American opinion and practice.

What silly fancy or absurd whim of a testator can be instanced in Massachusetts? Is anybody in this country obstructed, as to his rights, duties or enjoyments, by any endowment or foundation provided by the living or the dead? The suggestion is to the last degree ungrateful and absurd. Because there have been found in England a few endowments six or seven centuries old, which, in the changed condition of society, had come to do more harm than good, shall we on this fresh continent, in this newly organized society, distrust all endowments? Let us at least wait to be hurt before we cry out. If the time ever comes in this country when certain endowments, or classes of endowments, are found to do more harm than good to the community, legislation must then reform them, so as to prevent the harm and increase the good. We may be sure that our descendants of five centuries hence will have the sense to treat the endowments which we are establishing as England has treated some of her mediæval endowments—reconstruct them, when they need it, without destroying them. Taxation would not only be no remedy for the folly of endowments, if there were foolish endowments; but it would actually abridge the moral right of the State to interfere with mischievous endowments. Institutions which are fostered by the State through exemption from taxation must admit the ultimate right of the State to inquire into the administration of their affairs. An institution, on the other hand, which got no help from the State, and was taxed like a private person, would have a right to claim all the immunity from state inquiry into its affairs which an individual may claim. Thus the State may and should demand from every exempted institution an annual statement of its affairs which could be given to the public; but no such statement for public use could properly be demanded of an institution which paid taxes like any private citizen. Such an institution would have a moral right to the privacy which an individual is entitled to in a free country.

In this country, when one wishes to scoff at endowments, he must draw on his imagination for his facts. There is but one well-founded charge to bring against our countrymen in this matter of setting apart private property for public uses of religion, education and charity.

They scatter their gifts too widely, so that a greater number of institutions are started than can be well maintained. But the remedy for this evil is to consolidate endowments,—not to tax them. This consolidation has already begun, and will be brought about by the gradual enlightenment of public opinion on this subject. To draw a vivid picture of alleged scandals and abuses, and then propose some action of an irrelevant nature, desired for other reasons, as if it were a remedy for those scandals and abuses, is a well-known device of ingenious disputants; but it is a device which ought not to impose on clear-headed people. To prejudice the mass of the people against endowments is the part of a demagogue, for it is to induce them to act ignorantly in direct opposition to their own real interests; since endowments exist for the benefit of the great mass of the people, while they are a matter of but slight concern to the rich. The rich man does not care whether education be dear or cheap; he does not want the scholarships of a college; he does not need to send his children to a hospital; he could afford to keep a clergyman in his own family, if he cared to. It is the poor man who needs the church which others have built; the college which, because it has endowments, is able to offer his ambitious son a liberal education; the hospital which can give him, when disabled, attendance as skilful and careful as the rich man can buy. Moreover, the poor man has no direct interest in this proposed taxation of the institutions now exempted; it will not help him pay his poll-tax, nor lessen the amount of it; it will help no one but the property-holders. It is natural enough that a property-holder who has no public spirit should desire to escape his share of the charge of supporting institutions of public utility, on the ground that he feels no personal need of them. But that a man of property feels no want of institutions which are necessary to the security of the community, and does not believe in them, is no reason for excusing him from his share of the support of these institutions. The doctrine that a citizen can justly be called upon to contribute to the support of those things only which he approves, or which are of direct benefit to him, would cripple our public schools as well as our colleges, and, in fact, would destroy the basis of almost all taxation.

The Massachusetts statute about the exemption, as it is administered, guards effectually against all the real evils described by the law term “mortmain,”—a word, the translation of which seems to be such an irresistible rhetorical titbit for many who advocate taxing churches and carrying on universities by legislative grants. It is, indeed, inexpedient that religious, educational, or charitable corporations should

hold large quantities of real estate for purposes of revenue ; first, because experience shows that such corporate bodies do not, as a rule, improve real estate as steadily and promptly as individuals ; and secondly, because the accumulation of large quantities of land in single hands, although permissible, and often rather beneficial than hurtful to the community, is an operation which needs the natural check of death and distribution among heirs. This check is wanting in the case of permanent corporations. Now, the Massachusetts statute does not exempt from taxation real estate held by religious, educational and charitable institutions for purposes of revenue. On the contrary, all such property so held by these institutions pays taxes precisely as if the pieces of property belonged to private individuals. If the Old South Church corporation owns stores, from which they derive income applicable to the purposes of their trust, those stores are taxed precisely as if they were the property of individuals. Harvard University owns a number of stores in the business part of Boston ; with one exception (a store included in the exemption given by the charter of 1650), these stores are taxed just as if they belonged to an individual. If the Catholic Church undertakes to hold real estate for income, or as an investment, it has to pay taxes on such property, under the existing statute, like any private citizen. No exempted institution can hold real estate free of taxes except that which is fairly necessary for the purposes of the religious, educational or charitable trust. It would be a dishonorable evasion of the real intent of the statute to claim exemption on real estate which was bought with the intention of selling it again at a profit ; and if any addition could be made to the statute which would make such a practice impossible, or would subject to penalties any institution which should be guilty of it, such an addition would be an improvement ; although it is altogether likely that the offence contemplated has never, as a matter of fact, been committed. Of course, the mere fact that an institution has made a sale of exempted land is not in itself evidence of an evasion of the statute ; for poverty may compel an institution to part with land which it ought, in the real interest of the trust, to keep. It is also a perfectly legitimate transaction for an exempted institution to sell one site in order to occupy another. One cause of the agitation for the abolition of the exemption has been the distrust awakened by sales of church property at large profit in the older parts of our growing cities. But these sales are perfectly legitimate. Those who believe in the public utility of churches need only to be assured that the proceeds of these advantageous sales must be invested in new

churches,—that none of the property can relapse into the condition of private property. This assurance the action of the Massachusetts Courts indisputably gives. It is hard to see why these transfers of churches from more valuable to less valuable city lots should seem a grievance to anybody. Whenever a city church sells its old site for a large sum, buys a new site for a much smaller sum, and with the balance erects a handsome church, the amount of property exempted from taxation remains precisely what it was before, and the city gains an ornamental building. There is less value in the exempted land than before, but more in the building. On the whole, considering the nature of American legislation concerning testamentary dispositions and the holding and transfer of land; considering the nature and history of our ecclesiastical bodies, and the mobility of our whole social fabric, there is probably no economical evil from which an American State is so little likely to suffer as the mediæval evil of mortmain. To live in apprehension of it would be as little reasonable as for the people of Boston to live in constant dread of being overwhelmed by an eruption of lava from Blue Hill.

It has been suggested by persons who apprehend that the institutions of religion, education and charity, or some of them, will get a disproportionate and injurious development, that only a limited exemption should be allowed them, the limit to be fixed by legislation. If, however, the property of these corporations is really held and used for a high public purpose, it is hard to understand how it can be for the interest of the public to pass any laws which tend to limit the amount of that property,—at least until more property has been set aside for that purpose than can be well used. If it is inexpedient for the State to use for its common purposes—not religious or educational—any portion of the income of a church or an academy up to \$5,000, why is it not also inexpedient to divert from religious or educational uses any portion of the income above \$5,000? If the legislature could tell with certainty just how much property it was expedient for a church, or a college, or a hospital to have, then a limit for exempted property in each case would be natural and right; but the legislature cannot have this knowledge; and if they could acquire it for to-day, it would be outgrown to-morrow. Moreover, the circumstances and functions of the various exempted institutions are so widely different and so changeable, that each institution would necessarily have its own limit prescribed by law, and would be incessantly besieging the legislature for a change in its limit. The legislature would be forced to keep removing the limit of exemption, because in most cases there would be no

logic in the limit. The more books there are in a library, the better ; it would be absurd to exempt the first hundred thousand, and tax the second hundred thousand. The more good pictures, statues and engravings there are in an art museum, the better ; it would be absurd to exempt a museum while it had few of these precious objects, and tax it when it got more, and so became more useful to the public. A sumptuary law to prevent the erection of beautiful churches, by taxing the excess of the value of a church above a certain moderate sum, would be singular legislation for Massachusetts. Who can tell how much money Harvard, or Amherst, or Williams could use legitimately to-day for the advantage of the State in advanced education? If one knew to-day, the knowledge would be worthless next year. The one perfectly plain fact is, that no one of the institutions of advanced education in this State has one-half the property which it could use to advantage. It would be cruel mockery to enact that a woman, who can hardly buy calico and flannel, shall not wear velvet and sable. The amount of exempted real estate which any of the exempted institutions can hold is limited by natural causes. As such real estate is, as a rule, completely unproductive, the institution will not be likely to tie up any more of its property in that form than it can help. A limit to exempted real estate has seemed desirable to some persons, because it has sometimes happened in large cities that institutions of religion, education or charity, have changed their sites with great profit ; but in such cases the community gets the whole advantage of the profit in the increased work of the church, college or hospital. Moreover, such transactions imply a growing population, likely to make increasing demands upon the institutions of religion, education and charity, which, therefore, need all the new resources which the growth of population fairly brings them.

Those who advocate limiting the amount of the exempted property which may be held for a religious, educational or charitable trust, seem to forget that it is the public which is the real enjoyer of all such property, and that it is the public only which is really interested in its increase, except as gratitude, affection or public spirit may prompt individuals to share this public interest. All such trusts are gifts "to a general public use, which extends to the poor as well as the rich," to quote Lord Camden's definition of a charity in the legal sense. They are gifts for the benefit of an indefinite number of persons, by bringing their minds under the influence of religion or education, or by relieving their bodies from disease. They are trusts in the support and execution of which the whole public is concerned, on which account they are

allowed, unlike private trusts, to be perpetual. Now, for the public to make laws which tend to discourage private persons from giving property to the public for its own uses, is as unwise as for the natural heir to put difficulties in the way of a well-disposed relative who is making his will. The fact that the property of these public trusts is administered by persons who are not immediately chosen or appointed by the public, obscures to some minds the essential principle that the property is really held and used for the public benefit; but the mode of administration does not alter the uses, or make the property any less property held for the public. Experience has shown that many of the religious, educational and charitable works of the community can be peacefully, frugally and wisely carried on by boards of trustees; and that method has been preferred in England and the United States. On the continent of Europe these functions are discharged by government; but, under both methods of administration, the functions are public functions. The fact that nobody has any permanent interest in the property of such trusts, except the public, is well brought out by imagining what would occur if a church, or an academy, or an insane asylum should be taxed, and nobody should come forward to pay the taxes. It is nobody's private interest to pay such taxes. The city or town could proceed to sell the church or other building belonging to the trust; but if it did so, the effect would be that a piece of property, which had been set apart for public uses, would become private property again, unless some benevolent persons should, for the love of God or the love of their neighbors, buy the property over again for its original public uses. A city might as well levy taxes on its city hall, and sell it for taxes in default of payment.

It remains to consider the effect of abolishing the exemption. No church could be maintained upon ground which would be very valuable for other purposes, and costly church edifices would be out of the question. A society whose land and building were worth \$300,000 would have to pay \$4,500 a year in taxes, besides all the proper expenses of a church. The burden would be intolerable. The loss to the community, in that pure pleasure which familiar objects of beauty give, would be unspeakable. The village could spare its spired wooden church as ill as the city its cathedral. Cities have learned that fine architecture in their own buildings is a justifiable luxury. On the same betterment principle handsome churches are profitable to the public as well as delightful. I say nothing of the grievous moral loss to the whole people which would result from crippling the existing churches, and making it harder to build the new ones

which our growing population should have. That loss would be deep and wide-spread and lasting; but other pens than mine can better depict it. Educational institutions would be obliged to take the taxes out of the income of their personal property or out of their tuition fees. The fifty or sixty thousand dollars which the city of Cambridge would take next year from Harvard University would be deducted from the money now available for salaries of teachers. This sum represents the pay of from twelve to fifteen professors, or of a much larger number of teachers of the lower grades. Moreover, the sum thus withdrawn from teaching would annually increase with the rising value of land in Cambridge; while it can by no means be assumed that the personal property and tuition fees of the University would increase proportionally. The burden might easily become wholly unbearable. The barbarous character of the proposition to tax property devoted to educational purposes may be well brought home by specifying a few of the items of what would be the tax on Harvard University. Memorial Hall, with the two acres of land in which it stands, would be taxable for not less than \$550,000 next year, and there is no telling the price per foot to which the land may rise, for it is well situated between three good streets. Eight thousand dollars would be next year's tax on that monument of pure devotion to the public good, and every year the tax would increase. Charlestown might as well be allowed to tax Bunker Hill Monument, as Cambridge to tax Memorial Hall. To commemorate the virtue of its one hundred and forty graduates and students, who died for their country in the war of the Rebellion, would cost the University the salaries of at least two professorships every year, in addition to the original cost of the land and buildings and the maintenance of the buildings. Moreover, every added picture or bust would entail an additional contribution on the part of the University to the ordinary expenses of the city of Cambridge. To place Charles Sumner's bust in the Hall would increase the annual taxes by \$7.50, and to hang there the portrait of Col. Robert G. Shaw, who was killed at Fort Wagner, would give \$15 a year to the city. The College Library may be freely consulted by all persons, whether connected with the University or not. With the building which contains it, this collection of books could hardly be valued at less than \$300,000,—a sum very far short of its cost. There would, therefore, be a tax upon that library of perhaps \$4,500 a year now; and, as about \$10,000 worth of books are bought each year, the annual increase of the tax would be sure. If it is inexpedient that such a library should be exempt from taxation, how

wrong it must be that cities and towns should pay all the expenses of public libraries, besides exempting them from taxation. The Observatory, an institution maintained solely for the advancement of knowledge, and having no regular income except from its endowments, is necessarily surrounded by open grounds, embracing several acres, and it must remain so protected, if good work is to be done there. The taxes on this land would eat up half the income of the Observatory now, and in a few years the whole income. The richer and more populous Cambridge became, the heavier would be the charges upon the University, for the higher would be the price of land throughout the city. It is to be observed, that the facts and illustrations used to support the proposition that institutions of religion, education and charity must be taxed, are mostly drawn from the rich towns and cities of the Commonwealth—not from the country villages. The advisability of taxing churches, colleges and hospitals, does not seem to suggest itself until a community gets very rich,—until its territory is at a great price per square foot. When Cambridge was a country village, she was glad to give the College a site for its first building.

The abolition of the exemption would reduce the service of all the institutions of advanced education in the State from 20 to 25 per cent. at present, and this diminution of efficiency would grow greater year by year. All the academies, colleges, professional schools, and scientific or technical schools, all the libraries not town libraries, all the museums of art or natural history, would see from one-fifth to one-quarter of their income diverted from education, and applied to ordinary city and town expenditures. An extravagant city or town government might at any time demand much more than one-fourth of their income. Precious institutions, which render great services to the whole State, or perhaps to the nation, would be at the mercy of a single local government.

It is impossible that a Massachusetts legislature should consent to so great a reduction in the work of the institutions of advanced education all over the State; that work is none too great now. Considering the place which Massachusetts has always claimed among her sister States in all matters of education, and which she must hold if her influence is to be maintained, it is incredible that she should seriously contemplate putting all her best institutions at such a terrible disadvantage in the race for excellence with similar institutions in the other States, where high education would remain untaxed. Of course, the direct aid of the State would be urgently invoked, and, indeed, it is obvious that the State would be compelled to assume the

charges which the crippled endowments for religion, education and charity could no longer sustain; the State tax would thereby be largely increased, and the tax-payers would lose rather than gain by the change. There is but small chance that local taxes would be diminished by abolishing the exemption. Give the cities and towns of Massachusetts new resources, and instantly they will make new expenditures which will more than absorb these resources. It is the excessive expenditure of towns and cities which has been the principal cause of this extraordinary proposition to tax religion, education and charity. The assessors are driven to desperate devices for increasing the public revenue. The one real remedy for the evils, which cause the eager search for something new to tax, is reduction of expenditure; and this reduction can only be accomplished through the election of independent and courageous legislators and administrators in towns, cities, and the State at large. Whenever the people find themselves in serious difficulty, they instinctively show their fundamental reliance upon men of character by calling upon them to bring the State out of trouble. The proposition under discussion is a proposition to cripple or crush the institutions which breed men of character. It should be called a proposition to get rid of churches, to cripple colleges, to impair charities, and to extinguish public spirit. The direct intervention of the State might indeed avert some of these evils, but only at the great cost of adding to the already too numerous and too complex functions of the State, and of strengthening the vicious tendency to centralization of powers in government.

The two nations in which endowments for public uses have long existed are the two free nations of the world. In England and the United States, the method of doing public work by means of endowments managed by private corporations, has been domesticated for several centuries; and these are the only two nations which have succeeded on a great scale in combining liberty with stability in free institutions. The connection of these two facts is not accidental. The citizens of a free State must be accustomed to associated action in a great variety of forms; they must have many local centres of common action, and many agencies and administrations for public objects, besides the central agency of government. France perfectly illustrates the deplorable consequences of concentrating all powers in the hands of government. Her people have no experience in associated action, and no means of getting any. To abandon the method of fostering endowments, in favor of the method of direct government action, is to forego one of the great securities of public liberty.

The sudden abolition of the exemption would work great hardship, because of the nature of the contracts and undertakings into which the exempted institutions are accustomed to enter. Churches and colleges have been planted or built up, life salaries have been promised, wills have been made, gifts received, trusts accepted, and investments made, all on the faith of this exemption. In all the institutions of advanced instruction, for example, professors are appointed for life, and great hardships would result from the violation of that implied contract. It would have been impossible for Amherst College to accept the gift of its new Chapel, or Harvard University the gift of its Memorial Hall, except under the exemption statute. Several active churches in our cities have built chapels for the benefit of the poorer classes; they did this good work under the exemption statute, and neither would nor could otherwise have done it. In case the legislature should see fit to abolish the exemption, equity would require that taxation should fall, not on property acquired during the existence of the exemption, but only on that acquired after the exemption was repealed. The legislature of a civilized State should always set an example of scrupulous respect for every acquired right or vested interest, particularly when it is endeavoring to enact justice and equality in the distribution of public burdens.

But I trust that it is not necessary to discuss how or by what stages this exemption should be abolished. The American States, rough and rude communities as they are in some respects, still lacking many of the finer fruits of civilization, nevertheless possess in an extraordinary degree the main elements of national strength. Churches, schools and colleges were their historical foundations, and are to-day their main reliance. The general respect for religion and education, the prevalence of public spirit, the diffusion of knowledge, the common maintenance of high standards of character,—these, and not growing wealth and increasing luxury, are the things which guarantee free institutions. Massachusetts has grown to be what she is under legislation which fostered institutions of religion, high education and charity, and these institutions, with the public schools, are the very foundations of her social fabric. We must not undermine the foundations of the solid old house which our fathers so wisely built.

If abuses have crept in, let them be reformed. If institutions which are really not of a public character get exempted, cut them off; if greater publicity is desirable in regard to the condition and affairs of the institutions exempted, provide for annual published returns; if there be fear of improper sales of land, long exempted, to the private advantage

of the trustees or proprietors of the moment, enact that all sales of such property shall be by order of a court, and that the court shall take cognizance of the investment of the proceeds. But while we reform the abuses, let us carefully preserve the precious uses of the exemption statute. That statute is an essential part of our existing system of taxation. It may be expedient that the whole system should be reconstructed; but the exemption of religious, educational and charitable property is certainly not the point at which the reconstruction should begin.

Let us transmit to our descendants, in long generations, the invaluable institutions of religion, education and charity, which we inherited from our fathers, and transmit them, not merely as strong and ample as ever, but multiplied, beautified and enriched by our loving care.

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